(1)

C.F. 1007/03
C.F. 101

IN THE HIGH COURT OF JUDICATURE AT BILASPUR(CHHATTISGARH)

WRIT PETITION NO.3286/2005

PETITIONER : 1) Satyawati W/o Bimbadhar Pradhan Caste Kolta, Aged about 70 years R/o Village Tetla, Present Address Chote Atarmuda, Tahsil & District Raigarh (C.G.)

VERSUS

RESPONDENTS : 1) Sagar Tathakathit, W/o bimbadhar Pradhan Caste Kolta, Aged about 59 years

2) Janardan S/o Bimbadhar Pradhan Caste Kolta, Aged about 30 years
No.1 to 2 are R/o Village Tetla, Tahsil & District Raigarh.

3) Smt. Parmeshwari D/o Bimbadhar Pradhan, W/o Raigadiha, Aged about 33 years, Occupation Cultivator, R/o Village Chikhali, Tahsil & District Bargad (Orissa)

4) Shaukilal Aged about 60 years S/o Shukhru Pradhan.

5) Laikhan Aged about 57 years Occupation – Cultivator. Both are R/o Village Tetla, Tahsil & District Raigarh (C.G.)

6) Janhavi D/o Ravishankar, W/o Suresh Pradhan, Aged about 47 years Occupation – Cultivator, R/o Village Koshmanda, P.S. Pushaur, Tahsil & District Raigarh (C.G.)

7) State of Chhattisgarh
Through : Collector, District Raigarh(C.G.)

F.R. No. 2653 dt. 15
Presented by Shri Sevgam
dated 18/7/05

PETITION UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRITS, DIRECTIONS AND/OR ORDERS

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP 3286/05 **सन्** **200**

18

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	27.7.2005 Shri S.C. Verma, counsel for the petitioner. Shri Sunil Otwani, Panel Lawyer for the State. By this writ petition the petitioner has questioned the legality and propriety of order dated 29.4.2005 passed by learned Additional Civil Judge Class-I, Raigarh in Civil Suit No.257-A/2002 thereby rejecting the application filed by the petitioner herein under Section 151 of the CPC. I have heard learned counsel for the petitioner. Learned counsel for the petitioner argued that the trial court accepted the written statement filed by the respondents after the expiry of prescribed period under the Code of Civil Procedure, therefore, the order impugned is illegal. I have perused the impugned order in which it has been mentioned that the petitioner herein made a prayer that since the written statement was filed beyond the prescribed limit, the same should not be accepted and taken on record. It has further been mentioned in the order that on the said date only the order regarding cost was passed, no order regarding acceptance or non-acceptance of written statement was passed. However, perusal of order sheet dated 12.8.2004 shows that on that date counsel for the petitioner refused to accept the cost imposed by the trial court on the respondents regarding filing of delayed written statement. It is further mentioned that since the plaintiff has already refused to accept the cost, therefore, the written statement will be read without cost.	

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

There is nothing on record which goes to show that the written statement was filed with how much delay and even as per the latest judgment of the Hon'ble Apex Court in the matter of **Kailash Vs. Nanhku & others** reported in **2005 AIR SCW 2346** written statement can be accepted by the trial court after expiry of 90 days, if the defendant shows sufficient ground for delay.

In view of the above, I am of the opinion that there is no merit in the petition and learned trial court has not committed any illegality or irregularity in passing the impugned order. As such, the petition of the petitioner is liable to be dismissed and accordingly, it is dismissed at the admission stage itself.

Consequently, M.W.P. No.2790/05 & I.A No.6302/05 also stand dismissed.

Sd/-
L.C. Bhadoo
Judge

(पीछे देखिये)